

Deconstructing the New York State Sales Tax Laws on Real Property

Real Property taxation can sometimes become ambiguous, especially if you are not conversant with the New York state tax laws. This article simplifies and answers questions such as when should I pay taxes, which contracts do I pay tax for, and many more questions you might have about real property taxation.

Real property is land, or any structure attached to it. This would generally include buildings, structures such as bridges, and other items such as materials or equipment that are attached to the land by more than just weight, for example, installation.

A real property contractor is someone who supplies and affixes, or installs materials, goods, structures that become a part of the property. Examples of contractors include bricklayers, carpenters, painters, and many more.

A real property contractor in the state of New York is required to charge sales tax to customers when they perform either or all the following, repair, maintenance, and installation.

Repair and maintenance are much alike in meaning, they are used to describe activities or processes done to keep the real property in a condition of readiness, efficiency, and all-around functionality or to improve the condition of real property. An example of a repair is fixing a broken refrigerator, or air conditioning unit, while maintenance service could be regular mowing of a lawn or cleaning services.

Installation on the other hand is used when referring to the service of setting up a tangible personal property for use in the real property. Installation services can include setting up a laundry machine or a dishwasher.

Subsequently, as a real property contractor who is taking up one of these jobs, you would be required to pay a sales tax on purchases related to these jobs. However, in the case of capital improvement work, purchases and payments for services are not taxable.

A capital improvement job is any addition, modification, or adjustment that: substantially adds value, significantly prolongs the life of the real property; becomes a permanent part of the real property, such that the removal would cause noticeable damage to the real property; and is intended to become a permanent installation. For example, breaking a wall to install a door, or taking down a wall that is separating two rooms.

A job is termed as a capital improvement if it checks these boxes. Although there are special rules that apply to some installations such as the installation of a floor covering is termed a capital improvement only if it is a new building and is the first floor covering that is installed.

Additionally, because of the ‘end result’ system used in defining these jobs, any ‘taxable job’ done in the process of doing a capital improvement is not taxable. Take for instance, in the process of tearing down a wall, you take out the debris, which would normally be considered as a maintenance job for which tax should be paid. This would be non-taxable.

The New York government has tried to ease the process of differentiating the types of jobs by creating a list ([Publication 862](#)) that categorizes these jobs. Regrettably, this list is not as comprehensive and does not contain every possible situation, especially for multiple and more complex contracts. That is why we at Sales Tax Helper LLC are here, to help you navigate all these barrages of information and to answer any questions you might have regarding Sales Tax on Real Properties in the state of New York. Kindly reach out to our team at your earliest convenience.

References

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